

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In Re:

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Chapter 11

**NEIGHBORS LEGACY HOLDINGS,
LLC,**

Case No. 18-33836

Debtors.

**GERALD H. PHIPPS, INC. D/B/A/ GH
PHIPPS CONSTRUCTION CO.**

Plaintiff,

V.

Adversary No. _____

**BRUCE W. MCVEIGH, Individually;
TENSIE AXTON, Individually;
ANDY CHEN, M.D., Individually
CYRIL GILLMAN, M.D., Individually
DHARMESH PATEL, M.D., Individually
HITESH PATEL, MD., Individually
SETUL G. PATEL, M.D., Individually
THOMAS G. GRUENERT, Individually
LAUREN A. COTTON, Individually
MAUREEN L. FHRMANN, Individually
PAUL ALLEYNE, M.D., Individually
MICHAEL CHANG, M.D.,
QUANG HENDERSON, M.D., Individually,
AND
JAMES THOMPSON, Individually**

Defendants.

NOTICE OF REMOVAL

Dharmesh Patel, M.D. files this notice of removal of a state court action styled *Gerald H. Phipps, Inc. D/B/A GH Phipps Construction Co. v. Bruce W. McVeigh, et al.* Cause No. 2019-32078 in the 133rd District Court of Harris County, Texas.

1. This Notice of Removal is filed pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027. Jurisdiction of this case arises under 28 U.S.C. § 1334, 11 U.S.C. §§ 1142 and 105.

2. Gerald H. Phipps, Inc. D/B/A/ GH Phipps Construction Co. (“Phipps”) is a Colorado corporation authorized to do business in Texas with a registered agent located at Corporation Service Company d/b/a CSC-Layers, Inc., at 211 E. 7th Street, Suite 620, Austin, TX 78701.

3. Bruce W. McVeigh is an individual who resides in Texas and may be served with process at 35 Adrianna Path Drive, Missouri City, Texas 77459.

4. Tensie Axton is an individual who resides in Texas and may be served with process at 6010 Blossom Street, Houston, Texas 77007.

5. Andy Chen is an individual who resides in Texas and may be served with process at 93 N. 3rd Street, Bellaire, TX 77401.

6. Cyril Gillman is an individual who resides in Texas and may be served with process at 17515 Big Basin Lane, Humble, TX 77346.

7. Dharmesh Patel is an individual who resides in Texas and may be served with process at 11002 Greenbay Street, Houston, TX 77024.

8. Hitesh Patel is an individual who resides in Texas and may be served with process at 11800 Astoria, Pearland, TX 77588.

9. Setul Patel is an individual who resides in Texas and may be served with process at 245 Merrie Way Ln., Houston, TX 77024.

10. Thomas G. Gruenert is an individual who resides in Texas and may be served with process at 13802 Cove Landing Lane, Rosharon, TX 77583.

11. Lauren A. Cotton is an individual who resides in Texas and may be served with process at 500 Crawford Street, #344, Houston, TX 77002.

12. Maureen Fuhrmann is an individual who resides in Texas and may be served with process at 2011 San Miguel Drive, Friendswood, TX 77546.

13. Paul Alleyne is an individual who resides in Texas and may be served with process at 4807 Braesvalley Drive, Houston, TX 77096.

14. Michael Chang is an individual who resides in Texas and may be served with process at 2138 McClendon, Houston, TX 77030.

15. Quang Henderson is an individual who resides in Texas and may be served with process at 2414 Inwood Drive, Houston, TX 77019.

16. James Thompson is an individual who resides in Texas and may be served with process at 5803 De Lange Lane, Houston, TX 77092.

17. Counsel for Phipps are Lisa M. Norman and T. Josh Judd, whose address is Andrews Meyers P.C., 1885 Saint James Place, 15th Floor, Houston, TX 77056.

18. Counsel for Andy Chen is James G Munisteri, Foley Gardere, 1000 Louisiana Street, Suite 2000, Houston, TX 77002.

19. Counsel for Cyril Gillman are Millard A. Johnson and Sara J. Sherman, Johnson, DeLuca Kurisky & Gould, 4 Houston Center, 1221 Lamar, Suite 1000, Houston, TX 77010.

20. Counsel for Dharmesh Patel is Christina Minshew Lewis, Moyer, Lewis, & Patton, LLP, 11767 Katy Freeway, Suite 990, Houston, TX 77079.

21. Counsel for Hitesh Patel is James G Munisteri, Foley Gardere, 1000 Louisiana Street, Suite 2000, Houston, TX 77002.

22. Counsel for Setul Patel are Jarrod B. Martin, McDowell Hetherington LLP, 1001 Fannin, Suite 2700, Houston, TX 77002 and Paul D. Flack, Pratt and Flack LLP, 4306 Yoakum, Houston, TX 77006.

23. Counsel for Paul Alleyne are Millard A. Johnson and Sara J. Sherman, Johnson, DeLuca Kurisky & Gould, 4 Houston Center, 1221 Lamar, Suite 1000, Houston, TX 77010.

24. Counsel for Michael Chang is James G Munisteri, Foley Gardere, 1000 Louisiana Street, Suite 2000, Houston, TX 77002.

25. Counsel for Quang Henderson is James G Munisteri, Foley Gardere, 1000 Louisiana Street, Suite 2000, Houston, TX 77002.

26. All of the facts and circumstances that are alleged in plaintiff's petition are centered on whether the defendants diverted loan proceeds allegedly paid to Neighbors Health LLC for two emergency room construction projects for other purposes. Dharmesh Patel questions whether Phipps has standing to pursue this claim. In short, does Phipps have a beneficial interest in funds over which the Debtor has only bare legal title? The order confirming the First Amended Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and its debtor affiliates under Chapter 11 of the bankruptcy code states as follows:

Gerald H. Phipps, Inc. If Gerald H. Phipps has the beneficial interest in funds over which the Debtor has only bare legal title, then Phipps may assert all rights with respect to such funds (or against any person who has diverted funds in contravention of applicable law and in which the Debtor has only bare legal title) notwithstanding any transfers of the bare legal title to the Unsecured Creditors

Trust. If Phipps asserts any such right, then any person or entity with standing may contest whether the Unsecured Creditors Trust has only bare legal title, or any other defense or assertion of right

Docket No. 847. The initial disposition of this lawsuit relates to the above language from the confirmation order.

27. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A), (L) and (O). The claims asserted by the Plaintiff require a determination of whether Gerald H. Phipps has the beneficial interest in funds over which the Debtor has only bare legal title. If, for any reason, this matter is determined to be non-core, then Dharmesh Patel consents to the entry of final orders or judgment by the Bankruptcy Court.

28. By filing this removal, Dr. Dharmesh Patel does not waive his right to a jury trial.

29. Attached as **Exhibit 1** is a copy of the petition filed by the plaintiff, as well as any other relevant pleadings filed in the state court case. Exhibit 1 constitutes the entirety of the process, pleadings, and orders in the state court case. Some of the defendants have not been served as of the date of this removal.

30. A copy of the notice of removal is also being filed in the 133rd District Court for Harris County, Texas. Concurrently with the filing of this Notice of Removal, Dharmesh Patel has served notice of this Notice of Removal on Phipps and all other defendants.

Dated: June 11, 2019

Respectfully submitted,

MOYER, LEWIS, & PATTON, LLP

/s/ Christina Minshew Lewis

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been served on all counsel of record in accordance with the Texas Rules of Civil Procedure 21 on June 11, 2019.

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